

VZCZCXRO9601

OO RUEHAG RUEHAST RUEHDA RUEHDBU RUEHDF RUEHFL RUEHIK RUEHKW RUEHLA
RUEHLN RUEHLZ RUEHNP RUEHPOD RUEHROV RUEHRS RUEHSL RUEHSR RUEHVK
RUEHYG

DE RUEHTI #0417/01 1770806

ZNR UUUUU ZZH

O 260806Z JUN 09

FM AMEMBASSY TIRANA

TO RUEHC/SECSTATE WASHDC IMMEDIATE 8242

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE

RUEHNO/USMISSION USNATO IMMEDIATE 3574

RHEFDIA/DIA WASHINGTON DC IMMEDIATE

RUEHVEN/USMISSION USOSCE IMMEDIATE 2512

RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 0829

RUEAIIA/CIA WASHDC IMMEDIATE

RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC IMMEDIATE

RHEHAAA/WHITE HOUSE WASHDC IMMEDIATE

UNCLAS SECTION 01 OF 03 TIRANA 000417

SENSITIVE

SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [KDEM](#) [PREL](#) [PHUM](#) [AL](#)

SUBJECT: SUBJECT: WHAT HAPPENS AFTER THE ELECTIONS?

REF: TIRANA 164

11. (SBU) Summary: With only three days until the elections, the question of what happens afterwards is being discussed more frequently, and in some cases, with increasing concern. If no one party or coalition wins an outright majority of 71 seats on June 28, they will have two months to try and cobble together a majority before the new parliament convenes on September 3. As the elections appear quite close, much discussion has centered around how parties or coalitions will be able to form a majority in the new parliament should no one group win a majority. Former PM Ilir Meta, leader of the Socialist Movement for Integration (LSI), still views himself as the kingmaker, but it is also possible to have a "minority" government if no agreement can be reached. President Topi will also play a key role, in that the President has the constitutional authority to officially invite a party or coalition to form a government. End summary.

FIRST, THE CONSTITUTION

12. (SBU) According to the Constitution, the party or coalition of parties that has the majority of seats in the assembly must propose a candidate for Prime Minister (PM) to the President, who would then appoint this candidate as PM, pending parliamentary approval. If the parliament approves this candidate, he is the new Prime Minister. If the parliament for whatever reason does not approve this name, the President must then appoint another PM within ten days. In the odd case that this candidate is also not approved by the parliament, it must elect another candidate for PM, but if it cannot do so then the President dissolves the Assembly and calls for early elections.

SECOND, THE NEW ELECTORAL CODE

13. (SBU) This election is the first held under a new electoral code, which was passed in December 2008. Under the new system, citizens will vote for parties, not candidates, and then votes will be allocated on a regional-proportional basis to the competing parties. The parties will then allocate the votes to their candidates which are rank ordered on party lists. In order to obtain a majority, and thereby be eligible to elect the Prime Minister, a party must win at least 71 parliamentary seats. In the event no

one party wins 71 seats, the coalition that is able to pull together 71 seats will have the opportunity to form a new government, and elect the next PM.

THIRD, CONFUSION OVER WHO GETS TO FORM THE GOVERNMENT

14. (SBU) Despite (or because of) the code and the Constitution, many areas of contention remain, some known and some still unknown. One major area of disagreement is the definition of "party" and "coalition" in the Constitution. Some interpret these to mean electoral "parties" or "coalitions" (meaning coalitions formed prior to the election for the specific purpose of running in the election together as a coalition) whereas others interpret these to mean parliamentary "parties" or "coalitions" (meaning groups of MPs or coalitions of parties formed after the election, for the purposes of getting enough MPs together reach 71 seats). If one interprets it the first way, as DP strategist and constitutional lawyer Ilir Rusmajli does, the pre-electoral coalition that wins a plurality of seats will receive the first exclusive opportunity (first invitation from the President) to come to try and form a government. Taking the latter interpretation, pre-election coalitions, parties, and even individual parliamentary deputies are free to change affiliations and form new coalitions, so any group that is able to cobble together 71 votes by September 3 will be able to form a new government. According to this interpretation of the law, once the CEC certifies the election, each MP essentially becomes a free agent, able to join whichever party

TIRANA 00000417 002 OF 003

or coalition s/he so chooses (or makes the best offer). Although parties and even individual MPs are free to change their affiliations at any time - as the Human Rights Party did recently when it left the DP ruling coalition in favor of the SP coalition - it is uncertain how changes in party and coalition affiliation after the election might affect who receives the first crack at forming a government. Regardless of legal interpretations, it is extremely unlikely that any party or coalition will calmly stand on the sidelines and allow the pre-electoral coalition or party with the plurality of seats to have exclusive rights to horse trading and negotiating. It is much more likely that all parties will engage in back-door discussions and deals simultaneously and when September 3 rolls around, some party or coalition will likely have been able to cobble together 71 seats. Given the dueling interpretations of the law, a real problem could arise should one party receive a plurality of seats (but still short of a 71-seat majority) via the election, but then be outmaneuvered in terms of forming coalitions between the election and convening of Parliament. In such a case, two separate parties or coalitions could make a claim to the right to the first invitation to form a government, thereby putting President Topi on the (very) hot seat.

15. (SBU) However if a majority is not reached by September 3, the formation of a "minority government" is possible

under the law. Under this scenario, if no one party or coalition is able to garner a majority of 71 seats, the party with the most seats would be asked to put forward a name for the next PM. However, this is only possible if a majority of MPs show up to parliament on September 3. If other MPs decided to boycott the session for some reason and a majority of MPs were not present, the parliament would be dissolved. For his part, Rusmajli said that while it is possible under the law to have a minority government, it is highly unlikely. Artur Metani, Legal Advisor to President Topi, tended to agree in a separate conversation.

¶6. (SBU) Most observers, including Metani, have also indicated that they expect numerous electoral challenges to be fielded after Election Day. These challenges, according to Metani and others, could take weeks to resolve and could even force electoral reruns in some regions if the challenges are found to be valid. If the Constitutional Court has to be brought in to resolve any significant impasses, it could add weeks or even months to the electoral process, according to Metani.

The Kingmaker(s) and I

¶7. (SBU) Legal uncertainty over who may get to form a government gives added power to former PM Ilir Meta and his LSI party. Meta has long fashioned himself as the kingmaker for this election. Although it is unlikely Meta would go into coalition with the DP, he could - for the right price - agree to allow some of his party's MPs join or not join an SP or DP coalition, thus potentially giving him the power to make or break a ruling coalition. The other potential kingmaker will be President Topi. The apparent legal ambiguity, as well as uncertainty on the part of Topi's chief

TIRANA 00000417 003 OF 003

legal advisor over how to interpret the law and constitution, mean that Topi could have a fair amount of discretion and leeway in determining which party or coalition gets the first invitation to form a new government.

FOURTH, HOPE

¶8. (SBU) What is clear is that not much is clear. In the event no party wins an outright majority of 71 seats on June 28, we could well see a legal and electoral free-for-all as parties, coalitions and individual MPs maneuver for the magic 71. These are uncharted waters for Albania and this election will set a precedent for some constitutional issues. Ominously, the President's legal advisor gave conflicting interpretations of the constitution and the law during a June 23 meeting, saying at one point that the Constitutional meaning of coalition is "electoral" coalitions and then a few minutes later said that coalitions means "parliamentary" coalitions. Metani's overall strategy appeared at times to be one of hope; hope that one party wins an outright majority and makes all other possible scenarios moot. But if the "hope" strategy does not work and no one party/coalition receives the magic number of 71 seats, July and August, which are usually dull and hot, will

instead be exciting and hot as each party/coalition will be scrambling to "encourage" other future MPs to join its coalition and thereby take a majority. In the end, Metani stressed the importance of these elections for Albania and said they would be a real test of Albania's political maturity.

He is right about that.

WITHERS